

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rule making related to artificial and natural marshes and providing an opportunity for public comment

The Natural Resource Commission hereby proposes to amend Chapter 45, “Boat Motor Regulations,” Chapter 51, “Game Management Areas,” and Chapter 52, “Wildlife Refuges,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6)“a,” 462A.26(2)“b,” 481A.38, 481A.39 and 481A.48.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 462A.26(2)“b,” 481A.5, 481A.6 and 481A.38(1)“a.”

Purpose and Summary

Chapter 45 regulates the type, size, and horsepower of water vessels accessing natural and artificial lakes and marshes under the jurisdiction of the Commission. When the Shimon family donated portions of land now known as the Shimon Marsh Wetlands Complex to the State of Iowa, they did so with a deed requirement that no motorized vessels be allowed on site. This restriction was never codified in Chapter 45, which is necessary to accurately enforce the property’s use requirements. The proposed amendments will add this restriction to Chapter 45.

Chapter 51 regulates the use of hunting blinds and decoys on game management areas, among other activities. The proposed amendments clarify that the decoy regulations in subrule 51.6(3) apply to all decoys, not just to waterfowl decoys.

Chapter 52 establishes Iowa’s state game refuges. The Commission is proposing to amend the chapter to correct an error that misclassifies two state game refuges as waterfowl refuges. The Commission and the Department of Natural Resources (Department) have considered—and regulated—portions of Ventura Marsh in Cerro Gordo County and portions of Crystal Hills in Hancock County as state game refuges for years, but they are misclassified in the chapter as waterfowl refuges. This is a nonsubstantive correction to prevent confusion for anyone reviewing Chapter 52.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the impact statement is available upon request from the Department.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the impact statement is available upon request from the Department.

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 6, 2018. Comments should be directed to:

Orrin Jones
Department of Natural Resources
1203 North Shore Drive
Clear Lake, Iowa 50428
Fax: 641.357.5523
Email: orrin.jones@dnr.iowa.gov
Phone: 641.357.3517

Persons may also convey their comments orally by visiting the Clear Lake Fish Hatchery during regular business hours.

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held. Upon arrival, attendees should proceed to the fourth floor to check in at the Department reception desk to sign in and be directed to the appropriate hearing location:

March 6, 2018	Conference Room 3 E & W
12 noon	Wallace State Office Building
	Des Moines, Iowa

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 571—45.5(462A) as follows:

571—45.5(462A) Artificial marshes. A motorboat equipped with any power unit mounted or carried aboard the vessel may be operated on the following listed artificial marshes under the jurisdiction of the department of natural resources at a speed not greater than 5 miles per hour between January 1 and August 31 and with no speed restrictions between September 1 and December 31.

Bays Branch, Guthrie County
Big Marsh, Butler County
Brown's Slough, Lucas County
Cardinal Marsh, Winneshiek County

Dudgeon Lake, Benton County
 Elk Creek Marsh, Worth County
 Green Island, Jackson County
 Hendrickson Marsh, Story County
 Hooper Pond, Warren County
 North Colyn, Lucas County
 Otter Creek Marsh, Tama County
 Princeton Area, Scott County
 Riverton, Fremont County
 Round Pond, Johnson County
 South Colyn, Lucas County
 Sweet Marsh, Bremer County
 Walnut Creek Marsh, Ringgold County
 Willow Slough, Mills County
 Woodpecker Marsh, Wayne County

~~Nothing in this rule is to be construed as limiting motorboat horsepower on natural marshes under the jurisdiction of the department of natural resources.~~

ITEM 2. Adopt the following **new** rule 571—45.6(462A):

571—45.6(462A) Natural marshes.

45.6(1) General use. There shall be no horsepower limitations on vessels operated on natural marshes unless otherwise specified by subrule 45.6(2).

45.6(2) Limitations. The following vessel type, size, or horsepower restrictions shall apply as designated:

Shimon Marsh Wetlands Complex, Pocahontas County—nonmotorized vessels only.

ITEM 3. Amend subrule 51.6(3) as follows:

51.6(3) Use of ~~waterfowl~~ decoys. The use of ~~waterfowl~~ decoys on any game management area, except on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River, is restricted as follows:

Decoys are prohibited from one hour after sunset until midnight each day, and decoys cannot be left unattended for over 30 minutes between midnight and one hour after sunset. Decoys shall be considered as removed from an area when they are picked up and placed in a boat, vehicle or other container at an approved access site.

ITEM 4. Amend subrules 52.1(2) and 52.1(3) as follows:

52.1(2) Wildlife refuges. The following areas under the jurisdiction of the department of natural resources are established as wildlife refuges where posted. It shall be unlawful to hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time, and no one shall carry firearms thereon, except where and when specifically authorized by the department of natural resources. It shall also be unlawful to trespass in any manner on the following areas, where posted, during the dates posted, both dates inclusive, except that department personnel, law enforcement officials, and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter the area when specifically authorized by the department of natural resources.

<u>Area</u>	<u>County</u>
South Twin Lake	Calhoun
Ventura Marsh	Cerro Gordo
Allen Green Refuge.	Des Moines
Henderson	Dickinson
Ingham Lake	Emmet
Crystal Hills	Hancock

Hawkeye Wildlife Area	Johnson
Colyn Area	Lucas
Gladys Black Eagle Refuge	Marion
Five Island Lake	Palo Alto
Polk City Refuge	Polk
Smith Area	Pottawattamie
Green Valley Lake	Union

52.1(3) *Waterfowl refuges.* The following areas under the jurisdiction of the department of natural resources are established as waterfowl refuges where posted. It shall be unlawful to hunt ducks and geese on the following areas, where posted, at any time during the year. It shall be unlawful to trespass in any manner on the following areas, where posted, during the dates posted, both dates inclusive, except that department personnel, law enforcement officials, and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter the area when specifically authorized by the department of natural resources.

Area	County
Lake Icaria	Adams
Pool Slough Wildlife Area	Allamakee
Rathbun Area	Appanoose, Lucas, Wayne
Sedan Bottoms	Appanoose
Sweet Marsh	Bremer
Big Marsh	Butler
Union Hills	Cerro Gordo
Ventura Marsh	Cerro Gordo
Round Lake	Clay
Jemmerson Slough Complex	Dickinson
Forney Lake	Fremont
Riverton Area	Fremont
Dunbar Slough	Greene
Bays Branch	Guthrie
Crystal Hills	Hancock
Eagle Flats	Hancock
Eagle Lake	Hancock
Green Island Area	Jackson
Muskrat Slough	Jones
Red Rock Area	Marion, Polk, Warren
Badger Lake	Monona
Chichaqua Area	Polk
McCausland	Scott
Princeton Area	Scott
Otter Creek Marsh	Tama
Rice Lake Area	Winnebago
Snyder Bend Lake	Woodbury
Elk Creek Marsh	Worth